

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1454

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Bennett

SUBJECT: Health Care

DATE: April 19, 2004                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parham</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill amends the home health agency and nurse registry statutes, allowing advanced registered nurse practitioners and physician assistants to give orders for skilled care as is permitted in other health care settings. The bill specifies that the sources of payment for home health services include Medicaid, Medicare, private insurance, personal funds, or a combination thereof.

This bill deletes a requirement that a registered nurse monthly visit the home of each individual who is attended by a certified nursing assistant (CNA) or home health aide referred by a nurse registry, in order to assess the patient’s medical condition and the quality of care that is being provided to the patient. The bill requires a nurse registry to advise each patient or person representing the patient, at the time of contracting for services, that registered nurses are available to make visits to the patient’s home at an additional cost.

The bill allows applicants to become licensed to practice nursing in Florida without completing an equivalent examination if the applicant has actively practiced nursing in another state, jurisdiction, or territory of the U.S. for 2 of the preceding 3 years without having his or her license acted against.

The bill amends ss. 400.487, 400.506, and 464.009, Florida Statutes.

## **II. Present Situation:**

### **Home Health Agencies**

Part IV of chapter 400, F.S., governs home health agencies, which are defined in s. 400.462(8), F.S., as organizations that provide home health services and staffing services. Home health agencies provide nursing care; physical, speech, occupational, respiratory and IV therapy; home health aide services; homemaker and companion services; home medical equipment; nutritional guidance; and medical social services in the patient's home or place of residence.

There are 1,176 licensed home health agencies in Florida as of January 26, 2004. In the first nine months of 2003, 260 applications were received for new home health agencies, more than double the number received in calendar year 2000. The Agency for Health Care Administration (AHCA) reports that telephone inquiries are received daily from persons interested in starting new home health agencies. Licenses are issued for a one-year period.

Section 400.487(2), F.S., requires that treatment orders be signed by the attending physician of a patient who is to receive skilled care within 30 days after the start of care. Most orders are received by telephone from the physician's office and home health agencies report difficulty in obtaining signed orders from physicians within 30 days. Medicare home health agency regulations and policy at 42 CFR Part 484 and the Medicare Home Health Agency Manual (CMS Publication 11) do not have a specific time frame and only require that physicians' orders be signed prior to billing for services.

### **Nurse Registries**

A nurse registry is a business that offers contracts for registered nurses, licensed practical nurses, home health aides, CNAs, homemakers, and companions. These persons work as independent contractors and provide services to patients in their homes or private duty and staffing services in health care facilities. A nurse registry cannot have any employees except for the administrator and office staff – all workers must be independent contractors. Nurse registries provide nursing care services, but they are not licensed to provide physical therapy or other therapy services or medical equipment services. Specifically, nurse registry services are limited to:

- Nursing care provided by licensed registered nurses or licensed practical nurses;
- Care and services provided by certified nursing assistants or home health aides; or
- Homemaker or companion services provided pursuant to s. 400.509, F.S.

A nurse registry does not qualify for Medicare and Medicaid reimbursements.

AHCA licenses nurse registries. Licenses are issued for a one-year period. The number of nurse registries has grown from 65 in 2000 to 178 as of January 26, 2004, a 163.5 percent increase, and it is anticipated by AHCA that the trend toward more applications for nurse registries will continue.

Persons who receive care from a home health aide or a CNA must have a physician and the physician must be notified within 48 hours after the contract for care is completed. A registered

nurse must make a monthly visit to each patient who receives services from a home health aide or a CNA to assess the quality of care provided as required in s. 400.506(10)(c), F.S. The home health agency statutes do not require this same amount of supervision for similar care.

Section 400.505(10)(c), F.S., further requires the nurse to report to the attending physician and nurse registry any condition which, in the professional judgment of the nurse, requires further medical attention. The assessment must become part of the patient's file with the nurse registry and may be reviewed by AHCA during the survey process.

### **Nursing Licensure by Endorsement**

Section 464.009(1)(c), F.S., relates to licensure by endorsement, and requires the Department of Health (DOH) to issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who demonstrates to the board that he or she has actively practiced nursing in another state, jurisdiction, or territory of the U.S. for 2 of the preceding 3 years without having his or her license acted against by the licensing authority of any jurisdiction. Applicants who become licensed pursuant to this paragraph must complete within 6 months after licensure a Florida laws and rules course that is approved by the board. Once DOH has received the results of the national criminal history check and has determined that the applicant has no criminal history, the appropriate license by endorsement shall be issued to the applicant. This paragraph is set to repeal July 1, 2004, unless reenacted by the Legislature.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 400.487, F.S., to specify that the sources of payment for home health services may include Medicaid, Medicare, private insurance, personal funds, or a combination thereof. A physician's assistant or an advanced registered nurse practitioner is authorized to establish and sign treatment orders for skilled services. Treatment orders must be signed before a claim for payment for skilled services is submitted by the home health agency, or in the time allowed under the provider agreement with a managed care organization. The bill deletes the requirement that the treatment orders must be signed within 30 days after the start of care.

**Section 2.** Amends s. 400.506(10)(c), F.S., to delete a requirement that a registered nurse monthly visit the home of each individual who is attended by a certified nursing assistant or home health aide referred by a nurse registry, in order to assess the patient's medical condition and the quality of care that is being provided to the patient. A nurse registry must advise the patient, the patient's family or a person representing the patient, at the time of contracting for services, that registered nurses are available to make visits to the patient's home at an additional cost. Language incorporating physician assistants and advanced registered nurse practitioners writing treatment orders has been added to this section as was done for home health agencies in section 1 above.

**Section 3.** Amends s. 464.009, F.S., relating to nursing licensure by endorsement, to repeal a July 1, 2004, repeal of an alternative nursing licensure endorsement provision that allows applicants to become licensed to practice nursing in Florida without completing an equivalent examination if the applicant has actively practiced nursing in another state, jurisdiction, or territory of the U.S. for 2 of the preceding 3 years without having his or her license acted against.

Under this alternative licensure path, the applicant must complete, within 6 months after licensure, a Florida laws and rules course approved by the Florida Board of Nursing.

**Section 4.** Provides that the act shall take upon becoming law.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, s. 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, s. 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Eliminating the requirement that a registered nurse make a monthly visit to every patient that has a home health aide or CNA will benefit the nurse registry. The nurse registry will not have to contract with a registered nurse to perform the monthly assessments.

Persons receiving services through the nurse registry will not have to pay the extra cost of a monthly registered nurse visit in addition to what they are paying for the home health aide or CNA.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Under section 400.506(10)(b), F.S., a CNA or home health aide is limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer, and those normal daily routines the patient could perform if he or she were physically capable. According to AHCA, it is unnecessary for an individual who needs only the type of non-skilled services delivered by a CNA or home health aide to be required to have monthly visits by a registered nurse.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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